

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DUANE WITZLIB,
Plaintiff,

v.

Case No. 08-C-0342

**ROBERT COHEN, Trustee,
American Wiper & Supply
Profit Sharing Plan,**
Defendant.

ORDER

Plaintiff Duane Witzlib brought this action against defendant Robert Cohen, the trustee and administrator of the American Wiper & Supply Profit Sharing Plan. Plaintiff alleges that defendant failed to respond to his requests for the Plan's annual reports and statements of account as required by 28 U.S.C. § 1132. Plaintiff served defendant, but he did not appear. Plaintiff moved for entry of default and default judgment. The clerk of court entered defendant's default, but I denied plaintiff's motion for default judgment because the allegations of the complaint, accepted as true, did not establish grounds for judgment. I provided plaintiff with the opportunity to cure the stated deficiencies, and in response he filed an amended complaint. Plaintiff, however, has not re-filed for default judgment. Therefore, I will close the file administratively. If plaintiff files a proper motion for default judgment, I will consider it.

SO ORDERED at Milwaukee, Wisconsin this 2 day of July, 2010.

/s _____
LYNN ADELMAN
District Judge